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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,252	01/29/2004	Martin Soika	P-US-PR 1092	4777
7590	02/08/2005		EXAMINER	
Michael P. Leary Black & Decker Corporation Mail Stop TW199 701 E. Joppa Rd Towson, MD 21286			CHUKWURAH, NATHANIEL C	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 02/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/767,252	SOIKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nathaniel C. Chukwurah	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 January 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4,6,8-10,14-16 and 18 is/are rejected.  
 7) Claim(s) 5, 6,11-13 and 17 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 29 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/28/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

In claim 1, “though” in line 12 should be --through--.

In claim 4, “though” in line 2 should be --through--.

In claim 9, “though” in line 11 should be --through--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8-10 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arakawa et al. (US 6,176,321) in view of Dochterman (US 3,997,805).

With regard to claims 1 and 9, Arakawa et al. discloses a handheld powered tool (1) comprising: a drive mechanism (gear system), a gear casing (11, 12) including entrance (opening), a motor (5) including armature shaft (10) having a first end (proximate end with pinion), a motor plate (plate adjacent gear housing) having opening (slot) for shaft (10) and an armature shaft bearing (see bearing on both sides of shaft 10) including an outer race (portion outside motor plate), and a metal ring defining a hole (ring-shaped slot on the plate);

Arakawa et al. lacks a resilient O-ring on motor plate and a resilient sealing ring located between the motor plate and the pinion; however, Dochterman teaches resilient O-ring (43 fig. 1)

and a resilient sealing ring (22 fig. 1) on motor plate (19) for sealing between motor plate (19) and armature shaft (12). Therefore, it would have been obvious to one skilled in the art at the time of the invention to provide the power of Arakawa et al. with resilient O-ring and a resilient sealing ring as taught by Dochterman in order to prevent contaminants from entering the motor (col. 1, line 9, col. 2, lines 8-11).

Note that a product-by-process limitation is limiting only as to the construction of the product that results from performing the process step. It does not require that the prior art sealing ring be made by the same process. Therefore, since the prior art sealing ring appears to have the same construction as the claimed sealing ring, the prior art sealing ring meets all of the sealing ring limitations.

With regard to claim 2, Arakawa et al. shows a resilient O-ring as modified by Dochterman.

With regard to claim 3, Arakawa et al. shows a motor plate sandwiched between the motor housing and bearing as shown in Figure 7.

With regard to claim 4, Arakawa et al. does not expressly show fixing member; however, Arakawa et al. is deemed to include fixing members which hold the motor plate in place.

With regard to claim 8, the modified tool of Arakawa et al. shows resilient O-ring (43) supported on the outer surface of plate (Dochterman fig. 4).

With regard to claim 10, Arakawa et al. shows a resilient O-ring (43) as modified by Dochterman.

Note that a product-by-process limitation is limiting only as to the construction of the product that results from performing the process step. It does not require that the prior art sealing

Art Unit: 3721

ring be made by the same process. Therefore, since the prior art sealing ring appears to have the same construction as the claimed sealing ring, the prior art sealing ring meets all of the sealing ring limitations.

With regard to claim 14, the modified Arakawa et al. further discloses a sub-assembly for a motor of a handheld powered tool (1) including armature shaft (10) having a first end (proximate end with pinion), a motor plate (plate adjacent gear housing) having opening (slot) for shaft (10) and an armature shaft bearing (see bearing on both sides of shaft 10) including an outer race (portion outside motor plate); a metal ring defining a hole (ring-shaped slot on the plate); resilient O-ring (43 fig. 1) and a resilient sealing ring (22 fig. 1) on motor plate (19).

With regard to claims 15 & 16, Arakawa et al. shows a resilient O-ring (43) as modified by Dochterman.

Note that a product-by-process limitation is limiting only as to the construction of the product that results from performing the process step. It does not require that the prior art sealing ring be made by the same process. Therefore, since the prior art sealing ring appears to have the same construction as the claimed sealing ring, the prior art sealing ring meets all of the sealing ring limitations.

Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arakawa et al. (US 6,176,321) in view of Dochterman as applied to claims 1 and 14 and further in view of Tamai et al. (US 4,83,414).

With regard to claims 7 & 18, the modified Arakawa lacks a fan; however, Tamai et al. teaches a fan which reduces the heat in the inner working of the tool.

Therefore, it would have been obvious to one skilled in the art at the time of the invention to provide the modified tool of Arakawa et al. with a fan which reduces the heat in the inner working of the tool.

***Allowable Subject Matter***

Claims 5, 6, 11-13 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

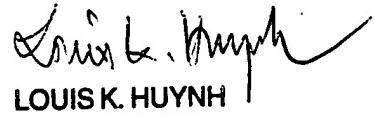
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (571) 272-4457. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NC

February 4, 2005

  
LOUIS K. HUYNH  
PRIMARY EXAMINER